

1 ANDREW P. BRIDGES (CSB No. 122761)  
 abridges@fenwick.com  
 2 ILANA RUBEL (CSB. No. 221517)  
 irubel@fenwick.com  
 3 TODD R. GREGORIAN (CSB No. 236096)  
 tgregorian@fenwick.com  
 4 KATHLEEN LU (CSB No. 267032)  
 klu@fenwick.com  
 5 FENWICK & WEST LLP  
 555 California Street, 12th Floor  
 6 San Francisco, CA 94104  
 Telephone: 415.875.2300  
 7 Facsimile: 415.281.1350

8 Attorneys for Defendants  
 GIGANEWS, INC., and  
 9 LIVEWIRE SERVICES, INC.

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA  
 12 WESTERN DIVISION

13 PERFECT 10, INC., a California  
 corporation,

14 Plaintiff,

15 v.

16 GIGANEWS, INC., a Texas Corporation;  
 17 LIVEWIRE SERVICES, INC., a Nevada  
 corporation; and DOES 1 through 100,  
 18 inclusive,

19 Defendants.

20 GIGANEWS, INC., a Texas Corporation;  
 21 LIVEWIRE SERVICES, INC., a Nevada  
 Corporation,

22 Counterclaimants,

23 v.

24 PERFECT 10, INC., a California  
 25 Corporation,

26 Counterdefendant.

Case No.: 11-cv-07098-ABC (SHx)

**DISCOVERY MATTER**  
*Before Hon. Stephen J. Hillman*

**DEFENDANTS' PROPOSALS FOR  
 RESOLVING DIFFERENCES ON  
 DEFENDANTS' DOCUMENT  
 REQUESTS NOS. 1 AND 2 TO  
 PLAINTIFF, IN RESPONSE TO  
 THE COURT'S INSTRUCTIONS**

Discovery Cut-off: June 30, 2014  
 Pretrial Conference: January 19, 2015  
 Trial Date: January 27, 2015

At the Court's instruction from the February 24, 2014 hearing on Defendants' Motion to Compel Production of Documents, the parties discussed proposals for reformulating Defendants' Requests Nos. 1 and 2.

We have been unable to get both parties to agree to a joint stipulation. We traded a number of communications. Below, Defendants set forth Defendants' proposals, and what Defendants believe are Perfect 10's latest positions. To enable the Court to understand the parties' positions, and to guard against any suspicion that Defendants have misrepresented Plaintiff's positions, Defendants attach a copy of the email correspondence regarding the negotiations as Exhibit I. Defendants do not furnish any argument with this response, but their views and concerns are evident in the correspondence.

Defendants are willing to discuss these proposals and provide further explanation or argument if the Court desires.

# **I. REQUEST FOR PRODUCTION NO. 1**

## **A. Original Request**

All communications to, by, or with all Third-Parties regarding Giganews, Livewire, or any dispute you have with Giganews or Livewire.

## **B. Defendants' Proposal**

All communications to, by, or with all Third-Parties regarding Giganews, Livewire, or any dispute you have with Giganews or Livewire. For all individual communications over 10 MB, produce general components (such as cover letters) and all additional portions that are concerning Defendant, so long as the portions provide sufficient additional material to provide a reasonable and accurate context so that one can understand the references to Defendants. Defendants may inspect the remainder of the communication at the offices of Lynell Davis and Natalie Locke on one week's advance notice and at a reasonable time during the business day.

1 **C. Defendants' Understanding of Perfect 10's Proposal**

2 All communications by Perfect 10 with third parties regarding alleged  
3 infringement of Perfect 10's copyrighted works by either Giganews or Livewire.  
4 To the extent that this request requires production of over 10 MB DMCA notices  
5 sent by Perfect 10 to third parties, Perfect 10 need only produce those portions of  
6 such notices identifying alleged infringement by Giganews or Livewire.

7 **II. REQUEST FOR PRODUCTION NO. 2**

8 **A. Original Request**

9 All communications to, by, or with any Third-Party regarding infringements  
10 by Persons other than that Third-Party, alleged infringements by a Person other  
11 than that Third-Party, or disputes you have or have had with a Person other than  
12 that Third-Party.

13 **B. Defendants' Proposal**

14 As a substitute for providing documents, Perfect 10 shall provide to  
15 Giganews a list of all businesses, entities, and websites that it has accused, up to the  
16 date of its response, of infringing upon its copyrights since January 1, 2000. That  
17 list shall include, at a minimum, all the websites to which Perfect 10 referred in  
18 page 2, paragraph no. 1 of Perfect 10's statement for the October 6, 2008 Case  
19 Management Conference Before Judge Matz in Perfect 10 v. Google (docket no.  
20 364, filed Oct. 5, 2008). While Perfect 10 must provide a current list, Perfect 10  
21 need not include in a new list any of the businesses, entities, and websites that it  
22 had identified in lists shown in Exhibits A through G to this substitute request, or in  
23 the full 32-page document of which Exhibit H is the first page, which it had  
24 previously filed in other cases, so long as Perfect 10 affirms in writing in this case  
25 that it has accused all those businesses, entities, and websites of infringing upon its  
26 copyrights.<sup>1</sup>

27 <sup>1</sup> For the Court's convenience, Exhibits A-H of the Substitute Request No. 2 are  
28 Exhibits A-H of this document.

1           **C. Defendants' Understanding of Perfect 10's Proposal**

2           As a substitute for providing documents, Perfect 10 shall provide to  
3 Giganews a list of 40 of the entities to whom Perfect 10 has complained about their  
4 alleged infringement of Perfect 10's copyrighted works between January 1, 2005  
5 and the commencement of this lawsuit.

6 Dated: March 6, 2014

FENWICK & WEST, LLP

7  
8 By /s/ Andrew P. Bridges

Andrew P. Bridges

9 Attorneys for Defendants  
10 GIGANEWS, INC. and LIVEWIRE  
11 SERVICES, INC.  
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FENWICK & WEST LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO